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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

July 14, 2008

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801 7352

Brett Bryson
1282 West 1200 South
Woods Cross, UT 84087

Subject: Proposed Assessment for Notice of Violation MN-2008-01-04, Wasatch Gravel and Rock, Barney Mine, S/049/0065, Utah County, Utah

Dear Mr. Bryson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above notice of violation. The NOV was issued by Division Inspector Lynn Kunzler, on June 9, 2008. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violation. The proposed assessed penalty is **\$198.00**. The attached worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of the NOV has been considered in determining the facts surrounding the violation and the amount of this penalty. Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the violation, you should file a written request for an Informal Conference within thirty 30 days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter.

The Informal Conference is distinct from the Assessment Conference regarding the proposed penalty. If you are requesting a review of the fact of violation as well as the proposed assessment, the assessment conference will be scheduled immediately following the review of the fact of the violation.



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S/049/0065
July 14, 2008

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and the penalty will be due and payable within thirty (30) days of the date of this proposed assessment, by (August 13, 2008). Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Tom Munson
Assessment Officer

cc:

Enclosure: Proposed Assessment Worksheet
Task ID# 2459
Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Barney Mine PERMIT S/49/0065
NOV / CO # MN-2008-01-04

ASSESSMENT DATE July 14, 2008 ASSESSMENT OFFICER Tom Munson

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for
CO)		

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Conducting mining operations without appropriate approvals
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *Inspector indicated that operations were being conducted prior to submitting and receiving approval of permit transfer. Inspector indicated that a phone call with current permit holder, the new operator did not have permission to operate under his permit.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*** *Operations were being conducted on previously disturbed areas. No damage occurred..*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 20

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic

gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE_____

ASSIGN NEGLIGENCE POINTS 4

PROVIDE AN EXPLANATION OF POINTS:

****** operator had thought his partner had turned in paperwork the week previous. However, he should have verified that this had occurred and waited to receive approval prior to starting operations. Points assigned mid point of lower half of range.***

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10
(Permittee used diligence to abate the violation)
- Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

****** This is considered a difficult abatement situation since a permit transfer needed to be submitted. Operator provided Permit transfer and made arrangements for reclamation surety within 3 days of being sited. Good faith points awarded midpoint of rapid compliance range.***

V. ASSESSMENT SUMMARY (R647-7-103.3)

Notice of Violation Number MN-2008-41-01

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>4</u>
IV.	TOTAL GOOD FAITH POINTS	<u>15</u>
	TOTAL ASSESSED POINTS	<u>9</u>
	TOTAL ASSESSED FINE	<u>\$ 198.00</u>